

“(B) due to changed circumstances arising after the member enters on active duty, he becomes in fact dependent on the member for over one-half of his support.

For the purposes of this section, the relationship between a stepparent and his stepchild is terminated by the stepparent's divorce from the parent by blood.”

1987—Pub. L. 100-26 inserted “the term” after “In this chapter.”.

1973—Cl. (2). Pub. L. 93-64, §103(1), in revising cl. (1) of first sentence, substituted “unmarried child” for “unmarried legitimate child” and defined dependent to include an illegitimate child whose alleged member-father has been judicially decreed to be the father of the child or judicially ordered to contribute to the child's support, or whose parentage has been admitted in writing by the member.

Cl. (3). Pub. L. 93-64, §104, in revising cl. (3) of first sentence, substituted “five years before the member became 21 years” for “five years before he became 21 years”, struck out requirement of actual residence of parent in the member's household, and inserted provision respecting determination of dependency of parent, including items (A) and (B), formerly contained in former section 2201 of Appendix to Title 50, War and National Defense.

Closing text. Pub. L. 93-64, §103(2), struck out second sentence, following cl. (3) of first sentence, stating that a person is not a dependent of a female member unless he is in fact dependent on her for over one-half of his support.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 631(b) of Pub. L. 103-160 provided that: “Section 401(a)(4) of title 37, United States Code, as added by subsection (a), shall apply with respect to determinations of dependency made on or after July 1, 1994.”

EFFECTIVE DATE OF 1973 AMENDMENT

Section 206 of Pub. L. 93-64 provided that: “This Act [enacting section 1173 of Title 10, Armed Forces, amending this section and sections 302, 302a, 303, 308a, and 403 of this title, and repealing sections 2210 to 2212 of Title 50, Appendix, War and National Defense] shall become effective July 1, 1973.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403b, 411f of this title; title 10 section 2002.

§ 402. Basic allowance for subsistence

(a) Except as otherwise provided by law, each member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for subsistence as set forth in this section.

(b) An enlisted member is entitled to the basic allowance for subsistence, on a daily basis, of one of the following types—

- (1) when rations in kind are not available;
- (2) when permission to mess separately is granted; and
- (3) when assigned to duty under emergency conditions where no messing facilities of the United States are available.

The allowance to an enlisted member, when authorized, may be paid in advance for a period of not more than three months. An enlisted member is entitled to the allowance while on an authorized leave of absence, while confined in a hospital, or while performing travel under orders away from his designated post of duty other than field duty or sea duty. The allowance for an enlisted member who is authorized to receive the basic allowance for subsistence under this

subsection is at the rate prescribed in accordance with section 1009 of this title or as otherwise prescribed by law. Unless he is entitled to basic pay under chapter 3 of this title, an enlisted member of a reserve component of a uniformed service, or of the National Guard, is entitled, in the discretion of the Secretary concerned, to rations in kind, or a part thereof, when the instruction or duty periods, described in section 206(a) of this title, total at least eight hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.

(c) An officer of a uniformed service who is entitled to basic pay is, at all times, entitled to the basic allowances for subsistence at the monthly rate prescribed in accordance with section 1009 of this title. An aviation cadet of the Navy, Air Force, Marine Corps, or Coast Guard is entitled to the same basic allowance for subsistence as is provided for an officer of the Navy, Air Force, Marine Corps, or Coast Guard, respectively.

(d) Under regulations and in areas prescribed by the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an enlisted member who is granted permission to mess separately, and whose duties require him to buy at least one meal from other than a messing facility of the United States, is entitled to not more than the pro rata allowance authorized for each such meal for an enlisted member when rations in kind are not available.

(e)(1) The President may prescribe regulations for the administration of this section, including definitions of the terms “field duty” and “sea duty” for purposes of the third sentence of subsection (b).

(2) For purposes of subsection (b), a member shall not be considered to be performing travel under orders away from his designated post of duty if such member—

(A) is an enlisted member serving his first tour of active duty;

(B) has not actually reported to a permanent duty station pursuant to orders directing such assignment; and

(C) is not actually traveling between stations pursuant to orders directing a change of station.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 470; Pub. L. 89-444, §2(2), June 9, 1966, 80 Stat. 198; Pub. L. 93-419, §3(1)-(5), Sept. 19, 1974, 88 Stat. 1152; Pub. L. 96-513, title IV, §411, Dec. 12, 1980, 94 Stat. 2905; Pub. L. 98-94, title IX, §908(a), Sept. 24, 1983, 97 Stat. 637; Pub. L. 98-525, title VI, §605, Oct. 19, 1984, 98 Stat. 2537; Pub. L. 98-557, §17(d), Oct. 30, 1984, 98 Stat. 2868; Pub. L. 99-145, title XIII, §1303(b)(5), Nov. 8, 1985, 99 Stat. 740; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
402(a)	37:251(a) (1st sentence).	Oct. 12, 1949, ch. 681, § 301, 63 Stat. 812; May 19, 1952, ch. 310, § 1(d), 66 Stat. 80; Aug. 10, 1956, ch. 1041, § 20(b), 70A Stat. 627; Sept. 2, 1958, Pub. L. 85-861, § 10, 72 Stat. 1556.
402(b)	37:251(a) (2d and last sentences). 37:251(b). 37:251(c).	Oct. 12, 1949, ch. 681, § 301, 63 Stat. 812; May 19, 1952, ch. 310, § 1(d), 66 Stat. 80; Aug. 10, 1956, ch. 1041, § 20(b), 70A Stat. 627; Sept. 2, 1958, Pub. L. 85-861, § 10, 72 Stat. 1556.
	37:251a.	Aug. 1, 1953, ch. 305, § 617, 67 Stat. 352.
	37:301(a) (45 words before proviso).	Oct. 12, 1949, ch. 681, § 501(a) (45 words before proviso), (e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay), 63 Stat. 825, 827; July 9, 1952, ch. 608, § 244, 66 Stat. 494; June 30, 1960, Pub. L. 86-559, § 8, 74 Stat. 282.
	37:301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay).	
402(c)	37:251(a) (less 1st, 2d, and last sentences).	
402(d)	37:251(e).	
402(e)	37:251(f).	
402(f)	37:251(d).	

In subsection (a), the words “in the amount set forth in subsection (d)” are substituted for the words “in such amounts . . . as are provided in this section”.

In subsection (b), the words “on a daily basis” are substituted for the last sentence of section 251(a) of existing title 37. The words “United States” are substituted for the word “Government”, in the 2d sentence of section 251(a) of existing title 37, section 251(b) of existing title 37, and section 251(e) of existing title 37. The word “confined” is substituted for the word “sick” for clarity. The last 16 words of the third sentence are substituted for section 251(b) (proviso) of existing title 37. The fourth sentence is substituted for section 251(a) of existing title 37. The last sentence is substituted for section 301(a) (45 words before proviso) of existing title 37 and section 301(e) (less applicability to basic pay, incentive pay, administrative pay, and duty without pay). In that sentence, the words “of a reserve component of a uniformed service, or of the National Guard” are substituted for the enumeration of the organizations concerned.

In subsection (c), the words “who are entitled to basic pay” are inserted to reflect the 1st sentence of section 251(a) of existing title 37.

In subsection (d), the reference in section 251(a) of existing title 37 to the allowance of \$1.05 per day for enlisted members granted permission to mess separately is omitted as superseded by section 251a.

In subsection (e), the words “Effective April 15, 1955,” are omitted as executed. The words “United States” are substituted for the word “Government”. The words “messing facilities” are substituted for the word “messes” to conform to subsections (b) and (d).

AMENDMENTS

1991—Subsec. (e). Pub. L. 102-25 struck out “of this section” after “subsection (b)” in pars. (1) and (2).

1985—Subsec. (b). Pub. L. 99-145 inserted “or as otherwise prescribed by law” after “title” at end of fourth sentence.

1984—Subsec. (b). Pub. L. 98-525 inserted “The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.”

Subsec. (d). Pub. L. 98-557 inserted provisions relating to Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

1983—Subsec. (e). Pub. L. 98-94 designated existing provisions as par. (1) and added par. (2).

1980—Subsec. (b). Pub. L. 96-513, § 411(a), inserted provisions authorizing an allowance while performing travel under orders, and struck out provisions prohibiting an allowance while being subsisted at the expense of United States.

Subsec. (e). Pub. L. 96-513, § 411(b), inserted reference to definitions of “field duty” and “sea duty”.

1974—Subsec. (a). Pub. L. 93-419, § 3(1), struck out “this section or by another” after “otherwise provided by” and substituted “as set forth in this section” for “in the amount set forth in subsection (d) of this section”.

Subsec. (b). Pub. L. 93-419, § 3(2), substituted provisions for allowance for enlisted members authorized to receive basic allowance for subsistence under this subsection by reference to section 1009 of this title for provisions for allowance for enlisted members on leave or were authorized to mess separately at an amount equal to the cost of ration to be determined by the Secretary of Defense.

Subsec. (c). Pub. L. 93-419, § 3(3), inserted reference to section 1009 of this title in provisions relating to the amount of basic allowance for subsistence.

Subsecs. (d) to (f). Pub. L. 93-419, § 3(4), (5), struck out subsec. (d) which related to basic allowance for subsistence for members of the uniformed services, and redesignated subsecs. (e) and (f) as (d) and (e), respectively.

1966—Subsec. (c). Pub. L. 89-444 extended to aviation cadets of the Coast Guard the entitlement to the same basic allowance for subsistence as is provided for an officer of the Coast Guard.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 605 of Pub. L. 98-525 provided that the amendment made by that section is effective Oct. 1, 1984.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by section 411 of Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-419 effective Sept. 19, 1974, see section 9 of Pub. L. 93-419, set out as an Effective Date note under section 1009 of this title.

INCREASE IN BASIC ALLOWANCE FOR SUBSISTENCE

Pub. L. 96-343, § 7, Sept. 8, 1980, 94 Stat. 1128, provided that: “Effective September 1, 1980, the rates of basic allowance for subsistence authorized by section 402 of title 37, United States Code, as in effect on the day before the date of the enactment of this Act [Sept. 8, 1980] (as prescribed by the President under section 1009 of such title), are increased by 10 percent.”

REGULATIONS RELATING TO SUBSISTENCE ALLOWANCE

Regulations relating to basic allowance for subsistence, see Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

EXECUTIVE ORDER NO. 10119

Ex. Ord. No. 10119, Mar. 30, 1950, 15 F.R. 1767, as amended by 1953 Reorg. Plan No. 1, §§ 5, 8, Apr. 11, 1953, 18 F.R. 2053; Ex. Ord. No. 10605, Apr. 22, 1955, 20 F.R. 2747, which related to regulations governing basic allowance for subsistence, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, set out as a note under section 301 of this title.

CROSS REFERENCES

Assimilation of pay and allowances, see section 1003 of this title.

Aviation cadets, allowances, pensions, gratuities, and other benefits, see section 6912 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 404, 420, 1003, 1009, 1012 of this title; title 10 section 6912; title 14 section 372; title 32 section 107.

§ 403. Basic allowance for quarters

(a)(1) Except as otherwise provided by law, a member of a uniformed service who is entitled